

REMARKS

A Petition for Extension of Time under 37 CFR 1.136(a) has been filed. Applicant requests that all fees be charged to Agent's deposit account number 502,083.

A Notice of Appeal under 37 CFR 41.20(b)(1) has been filed with this submission with regards to current claims 42 to 49 (Current Claims). Said notice is proper since said claims have been rejected twice. Applicant requests that all fees be charged to Agent's deposit account number 502,083.

A declaration under 37 CFR 1.132 has been filed. The Applicant requests that said declaration be admitted to the file under 37 CFR 1.116(e). See Remarks below for the good and sufficient reasons for entering said declaration.

A Pre Appeal Brief Request for Review has been filed.

***Declaration Filed After Final Rejection***

The Applicant has filed a declaration under 37 CFR 1.132. Said declaration is an actuarial opinion by Tom Bakos FSA MAAA as to the interchangeability of the phrases "cash value" and "current market value" in step i of claim 42, said claim being read in light of the Specification. Bakos further states that "substitution of the phrase 'current market value' for the phrase 'cash value' into claim 42 would not change the meaning of said claim in any meaningful way to a person of ordinary skill in the art".

The Applicant respectfully requests that said declaration be admitted under 37 CFR 1.116(e) for the following good and sufficient reasons.

The Examiner has stated that amended claim 42 "may be allowable over Nilssen, Grippo and Ridge..." (Advisory Action dated 29 December 2005) but has nonetheless refused to enter amended claim 42 and has further rejected current claim 42 for a second time.

In the appeal brief, the Applicant would like to provide persuasive arguments that current claim 42 and amended claim 42 mean the same thing. Thus, if amended claim 42 is allowable over Nilssen, Grippo and Ridge, then current claim 42 is also allowable. The declaration by Bakos will provide evidence to support said arguments.

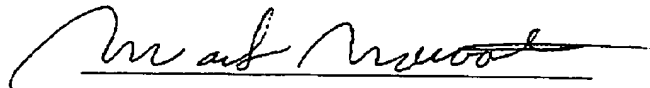
The declaration was not presented earlier since it was not needed until the Examiner issued the Advisory Action of 29 December 2005.

Thus the declaration meets the requirements of 37 CFR 1.116(e) and the Applicant respectfully requests that said declaration be entered into the record.

Respectfully Submitted,

March 20, 2006

Date



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### ACTUARIAL OPINION

**Date Prepared:** March 17, 2006

**Prepared By:** Tom Bakos, FSA, MAAA

**Services Provided For:** Mark Nowotarski as patent agent for patent applicant Groz

**Requested Service:** DECLARATION UNDER 37 CFR 1.132 REGARDING THE EQUIVALENCE OF THE PHRASES "CASH VALUE" AND "CURRENT MARKET VALUE"

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#### **Qualifications**

I am a Fellow of the Society of Actuaries (FSA) and a Member of the American Academy of Actuaries (MAAA) and am qualified, per Precept 2 of the Code of Professional Conduct (as adopted by all U.S. based actuarial organizations), to provide the services requested as noted above.

I am an independent actuarial consultant. I have no conflict of interest with any of the parties otherwise related to the patent application noted above.

#### **Reliances**

I have read and understood the currently amended patent application "Method and System for Increasing the Maximum Payout in a Game of One or More Players", US Serial Number 10/043,071 and the proposed amendment to claim 42 wherein the phrase "current market value" would be substituted for the phrase "cash value".

#### **Analysis and Opinion**

In the context of the Specification of the patent application the terms "cash value" and "current market value" are used interchangeably to refer to the value of an asset expressed in dollars at a point in time. Therefore, as used in the patent application, these terms would be understood by a person of ordinary skill in the art to mean the same thing.

**It is my expert opinion that the substitution of the phrase "current market value" for the phrase "cash value" into claim 42 would not change the meaning of said claim in any meaningful way to a person of ordinary skill in the art.**


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*tom bakos consulting inc.***Declaration**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

March 17, 2006

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Date

Tom Bakos, FSA, MAAA  
Consulting Actuary

January 4, 2005

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